

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

SARA E. ALLRED,

Plaintiff,

v.

NO. 12-CV-213 MCA/RHS

WELLS FARGO BANK, N.A.,

Defendant.

ORDER

THIS MATTER is before the Court on the *Report and Recommendation Regarding Motion for Contempt*, entered by the Honorable Magistrate Judge Robert H. Scott on August 15, 2013. [Doc. 73] The deadline for Objections to the *Report and Recommendation* was September 3, 2013. [Id.] No party has filed Objections to the *Report and Recommendation*.

Plaintiff in this case has completely failed and refused to participate in discovery, attend Court scheduled hearings, and otherwise prosecute this case. [Doc. 73, ¶¶ 1-10] Accordingly, Defendant filed two motions: a *Motion for Sanctions for Failure to Obey a Court Order and Attend Deposition*, in which Defendant asked the Court to dismiss this matter for Plaintiff's failure to comply with a discovery order and appear at her deposition [Doc. 57]; and a *Motion for Contempt And/Or Enforce Subpoena* [Doc. 59]. This Court referred both motions to the Honorable Magistrate Judge Robert H. Scott. [Doc. 60]


The Court's review of the Magistrate Judge's *Report and Recommendation* is governed by 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b)(3). The Court "may accept, reject, or modify the recommended disposition; receive further evidence; or

return the matter to the magistrate with instructions.” Fed. R. Civ. P. 72(b)(3). “As to any dispositive matter, magistrate authority is limited and the district court must use the *de novo* standard of review.” *Ocelot Oil Corp. v. Sparrow Indus.*, 847 F.2d 1458, 1462 (10th Cir. 1988).

Having engaged in a *de novo* review of the *Report and Recommendation*, hereby accepts it in part and rejects it in part. The Court accepts each of the ten Proposed Findings as set forth in the *Report and Recommendation*. [Doc. 73] The Court further accepts the first and second Recommended Dispositions as set forth in the *Report and Recommendation*. [Doc. 73] The Court rejects the third Recommended Disposition as set forth in the *Report and Recommendation*. [Doc. 73]

WHEREFORE, IT IS HEREBY ORDERED that Defendant’s request to dismiss this case as set forth in Defendant’s *Motion for Sanctions for Failure to Obey a Court Order and Attend Deposition* [Doc. 57] is **GRANTED**, and this case is **DISMISSED WITHOUT PREJUDICE** pursuant to Federal Rule of Civil Procedure 37(b)(2)(A)(v). **IT IS FURTHER ORDERED** that Defendant’s *Motion for Contempt And/Or Enforce Subpoena* [Doc. 59] is **MOOT** pursuant to the Court’s dismissal of the matter on Document 57.

IT IS SO ORDERED.


THE HONORABLE M. CHRISTINA ARMIJO
Chief Judge, United States District Court